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In re Application of  
GRUHLKE et al  
Application No.: 09/554,781  
PCT No.: PCT/EP98/07619  
Int. Filing Date: 02 July 1999  
Priority Date: 03 July 1998  
Attorney's Docket No.: NA  
For: SLAG CRUSHER

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DECISION ON  
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PETITION UNDER  
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37 CFR 1.137(b)  
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This is in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137" faxed on 15 November 2001.

### **BACKGROUND**

In a decision from this Office on 25 September 2001, the request for the Continued Prosecution was refused, and the notification of abandonment mailed on 13 March 2001 remained in effect. The decision indicated that applicant may wish to consider filing a petition under 37 CFR 1.137(a) or (b) requesting that the application be revived.

On 23 April 2001, applicant faxed to the United States Patent and Trademark Office (USPTO) the instant petition, which was accompanied by a fee transmittal form.

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.


Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b). Further, a review of the application reveals that the requirements under 35 U.S.C. 371 for entry into the national stage in the US have been satisfied.

**DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **16 April 2001**.

The petition fee of \$1,280.00 has been charged to Deposit Account No. 14-1263 as authorized in the fee transmittal form.

  
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